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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,682	07/05/2001	Jose Guterman	INTL-0594-US (P11735)	2665
21906	7590	06/06/2006	EXAMINER	
TROP PRUNER & HU, PC 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			NAWAZ, ASAD M	
			ART UNIT	PAPER NUMBER
			2155	

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/899,682

Applicant(s)

GUTERMAN, JOSE

Examiner

Asad M. Nawaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment filed 2/27/06. Claims 2 and 3 have been canceled. Claims 1, 11 and 21 have been amended. No claims have been added. Claims 1 and 4-27 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 4-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiscock (USPN: 6,721,787) further in view of Phillips (USPN: 6,188,898).

As to claim 1, Hiscock teaches a method comprising enabling a mobile unit to access a base station (see col. 3 lines 13-20 and lines 52-60).

However, Hiscock does not explicitly indicate downloading interface software when the mobile unit accesses the base station.

Phillips teaches downloading interface software when the mobile unit accesses the base station (col 1, line 65 to col 2, line 13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Phillips into those of Hiscock in order to make the mobile communications system exhibit improved functionality. Allowing a mobile

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communications system that can service mobile terminals having different operating protocols would server a vast variety of devices/consumers.

As to claim 4, Hiscock teaches the method and medium of claims 1 and 13 respectively including detecting a triggering event and in the response to the detection of said triggering event, determining whether interface software has been downloaded (see col. 3 lines 61-col. 4 lines 4).

As to claim 5, Hiscock teaches the method and medium of claims 4 and 15 respectively wherein if interface software has not been downloaded, downloading the interface software (see col. 6 lines 24-57).

As to claim 6, Hiscock teaches the method and medium of claims 4 and 15 respectively wherein if the interface software has not been downloaded, using default software (see col. 6 lines 24-57).

As to claim 7, Hiscock teaches the method and medium of claims 1 and 12 respectively wherein downloading interface software includes downloading new versions of an air interface protocol (see col. 3 lines 1-31).

As to claim 8, Hiscock teaches the method and medium of claim 1 and 12 respectively wherein downloading interface software includes downloading software suitable for a particular geographic area (see col. 3 lines 1-31).

As to claim 9, Hiscock teaches the method and medium of claims 1 and 12 respectively wherein downloading interface software includes downloading software to address interface compatibility problems (see col. 6 lines 29-47).

As to claim 10, Hiscock teaches the method and medium of claims 1 and 12 respectively including downloading an update to an air interface protocol (see col. 3 lines 1-31).

As to claim 11, Hiscock teaches the method and medium of claim 1 and 12 respectively including downloading substantially the entire air interface protocol (see col. 3 lines 1-31).

As to claim 12, Hiscock teaches an article comprising a medium storing instructions that enable a processor-based system to: enable a mobile unit to access a base station; and automatically download interface software when the mobile unit accesses the base station (see col. 3 lines 13-20, and lines 52-60 and col. 6 lines 5-20).

As to claim 13, Hiscock teaches the article of claim 12 further storing instructions that enable the interface software to be downloaded at the initiation of the base station (see col. 6 lines 5-20).

As to claim 14, Hiscock teaches the article of claim 12 further storing instructions that enable the processor-based system to initiate the downloading of the interface software (see col. 6 lines 5-20).

As to claim 15, claim is rejected under similar rationale as above-rejected claim 4.

As to claim 16, claim is rejected under similar rationale as above-rejected claim 5.

As to claim 17, claim is rejected under similar rationale as above-rejected claim 6.

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As to claim 18, claim is rejected under similar rationale as above-rejected claim
7.

As to claim 19, claim is rejected under similar rationale as above-rejected claim
8.

As to claim 20, claim is rejected under similar rationale as above-rejected claim
9.

As to claim 21, claim is rejected under similar rationale as above-rejected claim
11.

As to claim 22, claim is rejected under similar rationale as above-rejected claim
10.

As to claim 23, Hiscock teaches a wireless device comprising: a processor; and a storage coupled to said processor, said storage storing 'instructions to automatically download interface software when the device accesses a base station (see col. 3 lines 13-20 and lines 52-60 and col. 6 lines 5-20).

As to claim 24, Hiscock teaches the device of claim 21 wherein said device is a wireless telephone (see col. 3 lines 13-25).

As to claim 25, Hiscock teaches the device of claim 21 wherein said processor receives an interface software download from the base station (see col. 6 lines 5-20).

As to claim 26, Hiscock teaches the device of claim 21 wherein said processor detects a triggering event in response to the detection of the triggering event determines whether interface software has been downloaded (see col. 3 lines 61-col. 4 lines 4).

As to claim 27, Hiscock teaches the device of claim 22 wherein said processor downloads the interface software if the interface software has not already been downloaded (see col. 6 lines 24-57).

Response to Arguments

Applicant's arguments filed have been fully considered but they are not persuasive. In substance, the applicant argues that Phillips does not teach initiating from the base station.

In response, applicant is reminded that the rejection made in the previous action, (the above-maintained rejection), is under 35 USC 103(a). Therefore, applicant's invention has been rejected under Hiscock in view of Phillips in combination where Phillips is the secondary reference. Nevertheless, Phillips teaches the argued limitation. Phillips discloses that the mobile terminals are programmable via software downloaded over the air interface in response to a mobile unit accessing the base station (see col 4, lines 20-27). Furthermore, Phillips discloses multimode base stations that can further automatically interrogate the mobile terminals to determine operating protocols and take appropriate actions (see col 1, line 65 to col 2, line 13). It should also be noted that the claims as currently recited do not specify which device is downloading the interface software to/from.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asad M. Nawaz whose telephone number is (571) 272-3988. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AMN

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Philip Tran

PRIMARY EXAMINER